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QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Report of the Secretary-General submitted in accordance with Commission resolution 1997/72

Addendum

1. The present document contains comments submitted by the Governments of Malaysia and Portugal, UNICEF, the Office for the Coordination of Humanitarian Affairs, the International Decade for Natural Disaster Reduction and a publication by the International Rehabilitation Council for Torture Victims.

I. REPLIES RECEIVED FROM GOVERNMENTS

A. Malaysia

1. Introduction

2. The Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986, represents a watershed in the field of human rights. Though its adoption was through means of a vote, with 146 countries in favour, 1 against and 8 abstentions, there now exists an international consensus on the centrality of the right to development.

3. This consensus was affirmed in the 1993 Vienna Declaration and Programme of Action through, inter alia, its article 10, part I, which reads,

> "The World Conference on Human Rights reaffirms the right to development, as established in the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights."

4. It should also be noted that in 1948 the Universal Declaration of Human Rights was itself adopted through a vote, with 48 countries voting in favour, none against, and 8 abstentions.

2. The development of the International Bill of Human Rights

5. The International Bill of Human Rights currently consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and its two optional protocols.

6. It should be pointed out that from 1948, when the Universal Declaration was adopted, up to 1976, when the two International Covenants came into force, the Universal Declaration was the only completed portion of the envisaged International Bill. As for the International Covenants, while work on them had began in 1948, it was only 18 years later that the Covenants, as revised by the Third Committee, were finally approved unanimously by the General Assembly, through its resolution 2200 A (XXI) of 16 December 1966. Even after this unanimous approval, the Covenants, which required 35 ratifications, came into force only 10 years subsequently. It therefore cannot be said that the development of the International Bill as we know it today, was a smooth process. The fact remains that international human rights instruments cannot exist in a political vacuum. To a large extent, they are a reflection and an expression of the concerns of the international community as a whole.

3. The increasing significance and relevance of the Declaration on the Right to Development

7. There has been, recently, an awakening, on the part of Governments, to the centrality of the right to development, as contained in the Declaration on the Right to Development. The Declaration has an ever increasing relevance for the following reasons:

(a) Its emphasis on both individual and collective rights, as evidenced in the last preambular paragraph which reads,

> "Confirming that the right to development is an inalienable human right and that equality of opportunity for development is a **prerogative of both nations and of individuals who make up nations**."

(b) It also addresses the current debate on the vicissitudes of globalization, by drawing parameters of inter-State behaviour, through its article 4 which reads,

> "1. States have the duty to take steps, individually and collectively, to **formulate international development policies** with a view to facilitating the full realization of the right to development.
>
> 2. Sustained action is required to promote more rapid development of developing countries. As a complement to the efforts of developing

countries effective international cooperation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development."

The above is particularly relevant given the existing international economic situation, in which the Group of Seven developed countries (G 7) is in a position to formulate policies which may have negative repercussions for a large number of developing countries, who are not in a position to make their views meaningfully known. It can be easily seen that as a result of the fiscal and monetary policies of the G 7, the enjoyment of the economic, social and cultural rights of individuals in developing countries have been adversely affected, inter alia, through the increase in their countries' debt burden. International economic cooperation is therefore needed.

(c) The Declaration too gives equal treatment to economic, social and cultural rights. It acknowledges the link between these rights and the attainment of civil and political rights. These are contained in the tenth preambular paragraph:

> "Concerned at the existence of serious obstacles to development, as well as to the complete fulfilment of human beings and of peoples, constituted, inter alia, by the denial of civil, political, economic, social and cultural rights, and considering that all human rights and fundamental freedoms are indivisible and interdependent and that, in order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights and that, accordingly, the promotion of, and respect for enjoyment of certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms."

(d) The Declaration on the Right to Development forms the basis for development-oriented approaches to the promotion of human rights, which in turn constitutes an important contribution to the development and strengthening of alternative approaches to the promotion and protection of human rights.

8. Consequently, the Declaration makes a significant contribution to the current debate taking place in the human rights field. That is, whether human rights considerations should be incorporated into developmental issues, or conversely, whether developmental considerations should be incorporated into human rights issues. While the former seems to be the prevalent trend, developing countries are justifiably worried that it may be a precursor to the imposition of human rights conditionalities on their legitimate developmental programmes which, in effect, tantamount to the misuse of human rights as a trade protectionism measure and continuing economic dominance by developed countries.

9. Clearly, for developing countries, the second approach would be preferable, since it would also redress the imbalance in emphasis between civil and political rights and economic, social and cultural rights, which is currently tilted heavily in favour of the former.

10. The increase in the awareness of the importance of the right to development found further expression in the recent fifty-second session of the General Assembly. For example, operative paragraph 16 of the resolution on the right to development mentions that the General Assembly,

> "Notes that the fiftieth anniversary of the Universal Declaration of Human Rights is an ideal occasion for the international community to assess the progress achieved in:
>
> (a) Realizing freedom from fear and freedom from want as the highest aspiration of the common people;
>
> (b) Promoting the advent of a world where the inherent dignity of all members of the human family is recognized;"

It continues further in operative paragraph 17,

> "Affirms in the above regard, that the inclusion of the Declaration on the Right to Development in the International Bill of Human Rights would be an appropriate means of celebrating the fiftieth anniversary of the Universal Declaration of Human Rights."

11. While this resolution was voted on in the Third Committee, the overwhelming majority of countries were in favour of the inclusion of the Declaration on the Right to Development as part of the International Bill of Human Rights, with 104 countries voting in favour, 12 voting against and 33 abstaining (A/C.3/52/L.66/Rev.1). This trend was further reinforced in the plenary of the General Assembly where 129 countries had voted in favour, 12 voted against while 32 had abstained (A/RES/52/136).

Conclusion

12. With the above points in mind, the Government of Malaysia therefore fully supports the inclusion of the Declaration on the Right to Development as part of the International Bill of Human Rights, on an equal footing with the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, as well as their optional Protocols. It is felt that such an action would be a big step in making human rights an agenda for all, and towards realizing the fuller enjoyment of human rights worldwide.

B. Portugal

Measures to be taken to implement the Declaration on the Right to Development

13. Knowing and understanding the situation in the various States involves gathering information on the progress achieved and the difficulties encountered. Each State must endeavour to reflect specifically on the issue of the right to development. The following measures could be taken:

(a) A questionnaire could be drawn up (to be sent to all Member States) on practical measures taken to implement the Declaration on the Right to Development. It should be designed to encourage States to adopt a self-critical approach to the question by asking not just for a list of the measures taken, but also for an analysis of obstacles and difficulties in the way of the full implementation of the Declaration.

The answers to the questionnaire could have a doubly positive effect. Firstly, they would be used as a basis for later work by the United Nations - possibly by the Working Group on the Right to Development - (for the drafting of specific recommendations, see (b) below). Secondly, it would provide the reporting State with food for thought. The preparation of the report would encourage the authorities of each State to think about the realization of the right to development and to endeavour to evaluate the measures already taken and possible further action;

(b) The replies from States and the information supplied by NGOs could then be used as a basis in drafting a set of practical measures for submission to each State, taking account of the special conditions in each country;

(c) Finally, all these documents (Replies to the questionnaire and recommendations) should be published by the United Nations to serve as a basis and inspiration for all States, which would benefit from a comparative analysis of the recommendations made;

(d) Technical assistance should be provided to all States not having the facilities to prepare a report on the realization of the Right to Development.

14. The activities of the various bodies concerned with economic, social and cultural rights, human rights, women's rights, the rights of the child, the elimination of racial discrimination and measures against torture also need to be coordinated. Such coordination would be important in ensuring that during the analysis and consideration of reports on the implementation of the instruments on which the work of these bodies is based (International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, Convention on the Elimination of All forms of Discrimination against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child), special attention is paid to the right to development, for example, in the questions addressed to States by the various bodies after submission or during consideration of the States' reports.

15. The occasion of the fiftieth anniversary of the Universal Declaration of Human Rights should be used to promote and publicize all aspects and implications of the right to development.

16. National reports on the implementation of the Vienna Declaration and Programme of Action could provide States with an ideal opportunity to reflect on recent progress regarding certain rights, including various aspects of the right to development.

II. COMMENTS FROM UNITED NATIONS BODIES AND SPECIALIZED AGENCIES

A. UNICEF

The right to development: a UNICEF perspective

17. Over the last decade, UNICEF has increasingly become an active player in the field of human rights. While a number of political, social and economic factors have influenced UNICEF to become involved, a major turning point was the unprecedented success of the 1990 World Summit for Children, the first major global United Nations gathering of the 1990s. The impetus of the World Summit led to the adoption of a global agenda for children and the entry into force of the Convention on the Rights of the Child. Consequently, the virtual universal acceptance of the Convention (presently with 191 States parties) and the obligations arising from article 45 of the treaty, which specifically recognizes UNICEF as a major partner in its implementation, led UNICEF to broaden the scope of its mission in order to more effectively safeguard the rights of children worldwide.

18. By 1996, with the adoption of its Mission Statement, UNICEF affirmed its strong commitment to the realization of the human rights of children. The Mission Statement indicates that "UNICEF is mandated to advocate for the protection of children's rights and strives to establish children's rights as enduring ethical principles and international standards of behaviour towards children." Furthermore, it recognizes the importance of UNICEF's work in the promotion of the equal rights of women and girls and their participation in the political, social and economic development of their communities. Today, UNICEF's strategies, policies and programmes are guided and framed by the fundamental values of human rights.

19. UNICEF is guided by the Charter of the United Nations which identifies as one of the three purposes of the Organization the promotion of respect for human rights for all without discrimination of any kind, and further stresses the need to promote better standards of living, economic and social progress, and development.

20. The major United Nations Conferences of the 1990s further inform the work of UNICEF. These conferences generally affirm that the situation of children is the most accurate measure of development and they recognize the promotion of respect for the rights of the child as a common field for action. In this regard, the World Conference on Human Rights is of particular relevance since it recognizes that the human rights of children constitute a priority within the United Nations system and it recommends that the United Nations bodies and specialized agencies should assess periodically the impact of their strategies and policies on the enjoyment of human rights. In a historic step, the Conference called for the situation and human rights of children to be regularly reviewed and monitored by all in accordance with their respective mandates.

21. In UNICEF's view, the Convention on the Rights of the Child (CRC) constitutes a meaningful illustration of the essential principles of the Declaration on the Right to Development, including the fundamental importance of all human rights, the recognition of the human person as the central

subject of development and the essential relevance of participation. In fact, the CRC has established a holistic approach to the human rights of children, and provides a conceptual ethical and legal framework to ensure their implementation. The CRC has reaffirmed the indivisible and interrelated nature of all human rights and fundamental freedoms addressing the civil, political, and economic, social and cultural rights of children.

22. One of the fundamental values of the CRC is its affirmation that the child needs to be envisaged in his/her individuality and as subject of rights. Article 12 recognizes the right of the child to express views in all matters affecting him or her and having those views considered and given due weight. Accordingly, the child has the right to participate, particularly in the decision-making process which may occur, for example, within the family, the school, and the community. In this regard, UNICEF promotes and supports the active involvement of children in the decision-making processes and in initiatives which provide legitimate opportunities for children's views to be heard including:

(a) Workshops conducted in collaboration with schools and non-governmental organizations to inform children about their rights and the principles of the CRC;

(b) Children's parliaments to promote a discussion on the rights of children through the parliamentary process and procedures;

(c) Children's elections on their rights, allowing for children to engage in a discussion on the main features of their rights and on the areas requiring priority attention;

(d) Children's participation in the process of preparation of the State party report to the Committee on the Rights of the Child.

23. In addition, UNICEF also supports training programmes for professionals that work directly with, or are regularly in contact with children, such as teachers, social workers, judges and magistrates, police officers and others to increase their awareness about the CRC, particularly the right of the child to participate.

24. Having gained significant development experience over the last several decades, and having also recognized the links between human rights and economic and social development, UNICEF envisages the child as the central subject of development to ensure the realization of all the rights of the individual child. This requires gathering data on all groups of children, fighting the invisibility of the disadvantaged, promoting support to those in greater need, and bridging the prevailing social, economic or geographic disparities, in relation to younger children or in adolescence, girls and boys, children in rural and urban areas, children belonging to minority or indigenous groups.

25. In view of article 4 of the CRC which calls on States parties to undertake appropriate measures to implement the economic, social and cultural rights of the child to the maximum extent of their available resources, and where needed within the framework of international cooperation, UNICEF

continues to actively promote the 20/20 Initiative with its Government partners. This Initiative is a practical mechanism to establish agreements among developing countries and their partners in order to allocate more resources to basic social services. It is estimated that Governments of developing countries spend about $150 billion per year on basic social services, and that an additional $80 billion will be required every year to reach universal coverage. UNICEF further estimates that the full implementation of the 20/20 Initiative can mobilize sufficient resources to achieve the end-decade goals set by the World Summit for Children, which will in turn be an instrumental step towards the realization of children's rights.

26. UNICEF has been recognized as the lead United Nations body to coordinate efforts towards the implementation of the 20/20 Initiative. In close cooperation with UNDP, UNICEF is supporting the analysis of information about budgetary spending and ODA allocations to basic social services in more than 30 countries. The results of these studies will be presented as a follow-up to the Copenhagen Social Summit and the Oslo meeting on the 20/20 Initiative at an international meeting scheduled to take place in Hanoi in October 1998. The studies are intended not only to gather information, but also to build capacity at the national level to monitor the commitment of government donors in providing resources for achieving the global goals and for realizing children's rights.

27. It is in this conceptual framework that UNICEF acts at national, regional and global levels. It should be highlighted that UNICEF's application of the holistic approach to the human rights of children for development activities encourages countries to develop a national strategy for children and the inclusion of children's rights as a matter of priority in the political agenda. Thus far, this has led to the creation and enhancement of national institutions on children and their rights, inter-ministerial commissions, parliamentary committees, and national coalitions of NGOs, all focusing on child rights and guided by the Convention on the Rights of the Child.

28. In the area of cooperation with other international partners, including inter-agency cooperation, and with financial institutions as well as development organizations, UNICEF plays a leading catalytic role in (a) placing children's rights at the centre of their cooperation agenda; (b) assessing the impact of international cooperation on the lives of children and monitoring progress achieved in a systematic and comprehensive manner; and (c) preventing overlap and streamlining activities and resources.

29. In the light of article 45 of the CRC, UNICEF develops programmes of technical assistance to support the realization of human rights. In this regard, mention could be made of programmes designed to (a) promote law reform; (b) create national coordinating and monitoring mechanisms on children's rights; (c) launch information, education and training activities on children's rights; and (d) enhance national capacity to collect and analyse data on children and on the enjoyment of their rights.

30. It is in the same spirit that UNICEF is actively involved in the United Nations Development Assistance Framework (UNDAF) process, within the context of the undergoing United Nations Reform. In this regard, it is

important to recognize that all of the 19 pilot countries included in the initial UNDAF phase have ratified the Convention on the Rights of the Child, and a majority has already reported to the Committee on the Rights of the Child. In this environment, the United Nations system has a golden opportunity to promote development in a human rights context.

B. Office for the Coordination of Humanitarian Affairs

31. On the request of the Inter-Agency Standing Committee Working Group, the Appeal, Reporting and Monitoring Unit within OCHA is currently working on a Consolidated Appeal Users Guide which would include the notion of a "strategic framework". A strategic framework is now widely understood as being a tool which sets a collaborative vision for the future and establish an overarching backdrop for a programme embracing simultaneous and consistent action to achieve humanitarian relief and development cooperation objectives during all stages of crisis.

32. In that context, the objectives, priorities and programmes included in the Consolidated Appeal would be directed towards enhancing development activities such as restoration of productive economic capacity, rehabilitation of education, health, water, sanitation and social services, strengthening of democratic institutions, public administration, justice systems and employment activities and income generating activities. In that sense, the strategic framework could represent a first step in the promotion of the rights as described in the Declaration on the Right to Development.

C. International Decade for Natural Disaster Reduction

Disaster reduction eliminates obstacles that natural disasters represent towards development

33. Within the framework of the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights in 1998, and to celebrate the five-year implementation review of the Vienna Declaration and Programme of Action, the strategy used by the United Nations High Commissioner for Human Rights to attract the attention of the public in general and the media for the event might include, as a new dimension, the promotion of disaster prevention within the framework of the protection of human rights.

34. In that context, the International Decade for Natural Disaster Reduction (IDNDR, 1990-2000) wishes to draw attention to the contribution of natural disaster reduction to the full enjoyment and realization of economic, social and cultural rights, including the right to development. Disasters can be prevented from occurring; population at risk from natural hazards need not turn into actual victims, and will be able to fully enjoy an enabling environment. Disaster reduction builds on the active involvement of local communities and of the most vulnerable groups in the decision-making process. Thus, it plays its part in promoting civil society and democratization. In the same vein, disaster reduction provides a window of opportunity for equitable access to long-term protection for all, in particular through the sharing and dissemination of disaster-related information, the generalization of training, and through appropriate early-warning systems.

35. The International Framework of Action for the IDNDR is committed to integrate fully natural disaster reduction measures into countries' efforts towards sustainable development, through the full implementation of Agenda 21. Natural disaster reduction contributes to sustainable development by enhancing the protection of human life and basic requirements such as water, food, shelter and health against natural hazards and similar threats, through a pre-disaster/preventive approach. Disaster reduction also represents the link between humanitarian assistance and sustainable development: it contributes to sustained economic growth by protecting human lives, economic infrastructure and financial mechanisms, as well as business continuity and job opportunities. Disaster reduction eliminates obstacles that natural disasters represent towards development. Natural disaster reduction contributes to social and economic stability, and represents, thus, one element of international community's efforts towards ensuring peace and security.

36. The 1997 typhoon in Bangladesh and similar cyclones in coastal areas of the Indian State of Andhra Pradesh in 1991, may serve as examples for successful preventive action which saves thousands of lives and contributes to the protection of basic infrastructures. Preventive measures included efficient risk assessment and the recognition of the importance of education, quick communication, as well as the full participation, understanding and involvement of local communities in early warnings, and resulted in successful evacuations of populations at risk.

37. The socio-economic impact of the current occurrence of El Niño in Latin America, Africa and South East Asia, might surpass the 1982/83 event, the worst recorded so far, in terms of human losses, destruction of shelter and basic services through the disruption of crucial economic activities, i.e. the fishmeal industry in Peru. The increased intensity and frequency of hydrometeorological extremes deriving from El Niño affect most severely the vulnerable population groups in marginalized urban areas. The recurrent character of the phenomenon, however, make it now predictable, and the prevention of future phenomena passes through the observation and research activities based on existing historic data and their analysis.

38. Within IDNDR'S consolidation phase and concluding Programme Forum (Geneva, July 1999), the relationship between fundamental human rights and vulnerability/risks from natural disasters should become an issue of distinct interest, in particular with regard to research of long-term societal aspect of risk management.

III. COMMENTS RECEIVED FROM NON-GOVERNMENTAL ORGANIZATIONS

A. International Rehabilitation Council for Torture Victims

39. In a letter dated 17 February 1998, the International Rehabilitation Council for Torture Victims submitted its Annual Report for 1996 as a supplementary reaction to the Commission resolution (for the IRCT's initial reaction see E/CN.4/1998/28, para. 45). The 45-page document contains an article signed by Professor Bent Sorensen, member of the Committee against Torture, entitled "Human rights in development efforts: freedom from torture as a precondition for democracy". The two-page paper outlines the universal, indivisible, interdependent and interrelated character of all human rights.